

United States District Court
Eastern District of California

Willie Bailey, III,
Plaintiff,
vs.

No. Civ. S 04-2067 GEB PAN P
Order

J. Wedell, et al.,
Defendants.

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Plaintiff is a state prisoner without counsel seeking to commence a civil rights action. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

April 7, 2005, the court dismissed the complaint with leave to amend, as failing to state a cognizable claim. That order was in error and is vacated.

The complaint states cognizable claim for relief against defendants Wedell, Turella, Penner, Latteri and Farr pursuant to

1 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b).

2 Accordingly, the court hereby orders that:

3 1. The April 7, 2005, order is vacated and the complaint is
4 reinstated.

5 2. Service is appropriate for defendants Wedell, Turella,
6 Penner, Latteri and Farr.

7 3. The Clerk of the Court shall send plaintiff five USM-285
8 forms, one summons, an instruction sheet and one copy of the
9 September 30, 2004, pleading.

10 4. Within 30 days from service of this order, plaintiff
11 shall complete the attached Notice of Submission of Documents and
12 submit it to the court with the completed summons and USM-285
13 forms and six copies of the September 30, 2004, pleading.

14 5. Upon receipt of the necessary materials, the court will
15 direct the United States Marshal to serve defendants Wedell,
16 Turella, Penner, Latteri and Farr pursuant to Federal Rule of
17 Civil Procedure 4 without payment of costs.

18 Dated: June 16, 2005.

19 /s/ Peter A. Nowinski

20 PETER A. NOWINSKI
21 Magistrate Judge
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Notice of Submission of Documents

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Plaintiff hereby submits the following documents in
compliance with the court's order filed _____:

_____ completed summons form

_____ completed forms USM-285

_____ copies of the _____
Complaint

Dated: _____

Plaintiff